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APP3627
EPV



PATENT

Dkt No. 180009.91206B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

Applicant: Jon R. Stieber et al. Art Unit: 3627
Appl. No.: 10/004,738 Examiner: A. Rudy
Filed: December 4, 2001
For: AUTOMATIC CASH HANDLING MACHINE WITH WIRELESS
 NETWORKED I/O DEVICES

APPELLANTS' REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants, Jon R. Stieber et al., having filed a timely Brief on Appeal in the above-identified patent application, hereby submit this brief in reply to the Examiner's Answer.

(10) REPLY TO EXAMINER'S RESPONSE TO ARGUMENT

The Examiner states that any "inadvertent, incorrect operations" were not relied upon in the April 6, 2005, final Office Action. However, if the Board will refer to paragraph 4 of the April 6, 2005 action, it says "Applicant is directed towards (sic) the previous Office Action, paragraphs 3 and 4." If one returns to paragraphs 3 and 4 in the previous Office Action, it is said "it is noted that Amos devices may not dispense coins or notes if the coins or notes have been depleted," and the Applicant was further referred to the Office Action of April 21, 2004.

The Examiner has contended that if coins or notes have been depleted, that an ATM machine meets the claim language of a machine that only dispenses coins or only dispense notes, respectively. However, the claims were amended in response to this rejection in 2004 to recite that the first and second cash handling devices "do not have the capability to receive or dispense coins or notes, respectively." The Office Actions have not really explained why this does not distinguish from the above mode of operation, which is not an intended mode of operation for ATMs and is only an accidental or unintended condition.

The Examiner's next point is that even though the Office Actions do not present any new evaluation of the amended claims or the remarks, that these items were considered. The Examiner is not, and should not be, an arbitrator, who may render a decision without giving a reason. The Examiner is supposed to set forth a clear rationale why the Applicant is not entitled to a patent. If the Examiner's statements are simple conclusions, such as the claims are not patentable for the same reasons as before without addressing the amendments and remarks, the examination cannot progress to a resolution of the differences between the invention and prior art. The Examiner is frustrating the purpose of the examination by not making a proper record. Incorporation by reference to earlier office actions should be frowned upon.

The Examiner next argues against the comment that Richardson was not used in the original rejection of claim 15. In the action of April 21, 2004 of the previous Examiner, Richardson was only cited against certain dependent claims. In another examination anomaly, this Examiner has combined the prior rejections of the independent and dependent claims into a single omnibus rejection in the Office Action of April 6, 2005.

We are not sure what the Examiner is saying about "localization," but the claims define a localized wireless network and cooperation of machines that clearly defines over Amos once the technical content of Amos is understood and once the claims are parsed correctly.

Claim 15 recites:

"wherein said first cash handling device and said second cash handling device have respective circuits for communicating through a first wireless communication network operating according to a network standard for locally distributed wireless networks operating without servers;"

Such a network is further defined in the specification at para. 0016 as follows:

These networks (Bluetooth, etc.) operate in a range of frequencies which are available for locally distributed systems in which the equipment is no further apart than a range of from approximately 2 meters to approximately 100 meters.

Further evidence that the invention operates within the 100-meter zone is the following recitation in claim 15:

"in which the totals for notes and coins, respectively, are brought together through wireless communication from these respective devices within a range of no more than 100 meters from each other"

Thus, the Examiner's contention that the claim only requires the equipment to be within 100 meters, but that the communication distance can exceed 100 meters and utilize wired networks and servers is an incorrect understanding of the claim and the disclosure of this patent application.

Amos does not show wireless communication or any wireless communication between machines within a 100-meter zone through a network between the machines that is also limited to a 100-meter distance. The only communication is through long distance networks and servers which are distinguished by claim 15.

The final comment is that the Examiner said that he would consider an amendment after final on the merits during an Interview. He confirmed it in the Summary of Interview Record. The Examiner now says that some general language in an Advisory action issued at some later date after submission of the amendment is controlling. It is a common legal rule of interpretation that specific comments by an author will govern

over printed general provisions in a legal document, especially a non-contemporaneous document.

FEEES

No fee is believed to be due for this submission, but if any fee is deemed to be due, authorization is hereby given to charge Quarles & Brady Deposit Acct. No. 17-0055.

WAIVER OF ORAL HEARING

Appellants hereby waive an oral hearing and respectfully request the Board to decide the appeal on the briefs and the record of the application.

REQUEST FOR RELIEF

Appellants respectfully request the Board to reverse the Examiner, and to grant the Appellants a patent for their invention, as expressed in claims 2-9 and 15-21.

Respectfully submitted,

By:



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